

**WRITTEN OPPOSITION TO  
TRUSTEE'S DETERMINATION OF CLAIM NO. 015837**

**WITH RESPECT TO**

**BERNARD L. MADOFF INVESTMENT SECURITIES LLC**

**In Liquidation**

**DECEMBER 11, 2008**

On February 20, 2009, SMT Investors LLC ("SMT") filed a claim in connection with the liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS"). On June 23, 2009, the Trustee notified SMT that SMT's claim had been designated Claim Number 003139, that SMT's claim for securities was denied, and that SMT's claim was allowed for \$5,742,997.27, which was the amount of money SMT deposited with BLMIS for the purchase of securities, less subsequent withdrawals, all as outlined in Table 1 contained in the Trustee's Notice.

On June 25, 2009, the undersigned, a member holding a 42.05% interest in SMT with respect to SMT's investment with BLMIS, filed a protective claim in connection with the liquidation of BLMIS. This protective claim was filed in order to preserve any rights that the undersigned may have with respect to the outcome of litigation (the "Litigation"), which the undersigned understands to be pending, relating to the rights of a member in a limited liability company or other business entity to recover a separate amount from SIPC in a case in which the limited liability company or other business entity was a customer of BLMIS. On December 10, 2010, the Trustee notified the undersigned that the undersigned's claim had been designated Claim No. 015837, and that the undersigned's claim for securities and/or a credit balance had been denied.

Copies of the undersigned's claim, of the cover letter from the undersigned's counsel transmitting the undersigned's claim to the Trustee, and of the Trustee's Notice to the undersigned are attached.

The undersigned **DISAGREES** with the Trustee's determination denying the undersigned's claim. The undersigned's grounds for such disagreement are the grounds now being asserted by claimants in the Litigation. This Written Opposition is being filed in order to preserve any rights that the undersigned may have with respect to the outcome of the Litigation.

Respectfully submitted,

  
SUSAN MENDIK

**BERNARD L. MADOFF INVESTMENT SECURITIES LLC**

In Liquidation

**DECEMBER 11, 2008<sup>1</sup>**

**NOTICE OF TRUSTEE'S DETERMINATION OF CLAIM**

December 10, 2010

SUSAN MENDIK - SMT INVESTORS LLC  
150 E. 58TH ST - 17TH FLOOR  
NEW YORK, NY 10155

Dear SUSAN MENDIK - SMT INVESTORS LLC:

**PLEASE READ THIS NOTICE CAREFULLY.**

The liquidation of the business of BERNARD L. MADOFF INVESTMENT SECURITIES LLC ("BLMIS") is being conducted by Irving H. Picard, Trustee under the Securities Investor Protection Act, 15 U.S.C. § 78aaa et seq. ("SIPA"), pursuant to an order entered on December 15, 2008 by the United States District Court for the Southern District of New York.

The Trustee has made the following determination regarding your claim designated as Claim No. 015837:

Based on a review of available books and records of BLMIS by the Trustee's staff, you did not have an account with BLMIS. Because you did not have an account, you are not a customer of BLMIS under SIPA as that term is defined at 15 U.S.C. § 78fff (2). Accordingly, your Claim for securities and/or a credit balance is **DENIED**.

**PLEASE TAKE NOTICE:** If you disagree with this determination and desire a hearing before Bankruptcy Judge Burton R. Lifland, you **MUST** file your written opposition, setting forth the grounds for your disagreement, referencing Bankruptcy Case No. 08-1789 (BRL) and attaching copies of any documents in support of your position, with the United States Bankruptcy Court **and** the Trustee within **THIRTY DAYS** after December 10, 2010, the date on which the Trustee mailed this notice.

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<sup>1</sup> Section 78fff(7)(B) of SIPA states that the filing date is "the date on which an application for a protective decree is filed under 78eee(a)(3)," except where the debtor is the subject of a proceeding pending before a United States court "in which a receiver, trustee, or liquidator for such debtor has been appointed and such proceeding was commenced before the date on which such application was filed, the term 'filing date' means the date on which such proceeding was commenced." Section 78fff(7)(B). Thus, even though the Application for a protective decree was filed on December 15, 2008, the Filing Date in this action is on December 11, 2008.

**PLEASE TAKE FURTHER NOTICE:** If you do not properly and timely file a written opposition, the Trustee's determination with respect to your claim will be deemed confirmed by the Court and binding on you.

**PLEASE TAKE FURTHER NOTICE:** If you properly and timely file a written opposition, a hearing date for this controversy will be obtained by the Trustee and you will be notified of that hearing date. Your failure to appear personally or through counsel at such hearing will result in the Trustee's determination with respect to your claim being confirmed by the Court and binding on you.

**PLEASE TAKE FURTHER NOTICE:** You must mail your opposition, if any, in accordance with the above procedure, to each of the following addresses:

Clerk of the United States Bankruptcy Court for  
the Southern District of New York  
One Bowling Green  
New York, New York 10004

and

Irving H. Picard, Trustee  
c/o Baker & Hostetler LLP  
Attn: Claims Department  
45 Rockefeller Plaza  
New York, New York 10111

A handwritten signature in black ink, reading "Irving H. Picard". The signature is fluid and cursive, with the first name "Irving" and last name "Picard" clearly legible.

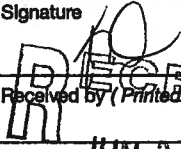
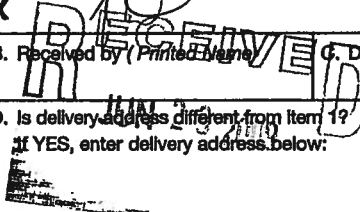
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**Irving H. Picard**

Trustee for the Liquidation of the Business of  
Bernard L. Madoff Investment Securities LLC

7008 0500 0000 6993 1761

<b>U.S. Postal Service</b>	
<b>CERTIFIED MAIL™ RECEIPT</b>	
(Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage	\$ 2.07
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$
Postmark Here	
Sent to <u>Irving H. Picard, Esq.</u>	
<u>Trustee for the Liquidation of Bernard</u>	
<u>Street, Apt. No., L. Madoff Securities LLC</u>	
<u>or PO Box No. Claims Processing Center</u>	
<u>City, State, ZIP+4 2100 McKinney Ave, Suite 800</u>	
<u>Dallas, TX 75201</u>	
PS Form 3800, August 2003 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>		<b>A. Signature</b> <b>X</b>  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
<b>1. Article Addressed to:</b> Irving H. Picard, Esq. Trustee for the Liquidation of Bernard L. Madoff Securities LLC Claims Processing Center 2100 McKinney Avenue, Suite 800 Dallas, TX 75201		<b>B. Received by (Printed Name)</b> <b>C. Date of Delivery</b> 	
<b>2. Article Number</b> (Transfer from service label) 7008 0500 0000 6993 1761		<b>D. Is delivery address different from item 1?</b> <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
<b>3. Service Type</b> <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		<b>4. Restricted Delivery? (Extra Fee)</b> <input type="checkbox"/> Yes	
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540			

**ROBERTS & HOLLAND LLP**

ATTORNEYS AT LAW

PARTNERS

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WRITER'S DIRECT NUMBER  
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JASON K. BINDER  
GIA G. BROCK  
LIBIN S. ZHANG  
DANIEL W. STAHL

\*NOT ADMITTED IN NEW YORK

June 25, 2009

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Irving H. Picard, Esq.  
Trustee for the Liquidation of  
Bernard L. Madoff Securities LLC  
Claims Processing Center  
2100 McKinney Avenue, Suite 800  
Dallas, TX 75201

Re: Bernard L. Madoff Investment Securities LLC  
Protective Claims

Dear Mr. Picard:

SMT Investors LLC ("SMT") (Account No. 1CM827) has previously filed a claim (No. 003139) in connection with the liquidation of Bernard L. Madoff Investment Securities LLC. Enclosed please find Protective Claims filed by the members of SMT listed below. Also enclosed for your convenience is a copy of SMT's claim form.

The members of SMT and their percentage interests in the SMT claim are as follows:

Susan Mendik	42.05%
Susan Mendik Trust u/w/o Jean Batkin	25.10%
Nancy J. Batkin 1998 Trust	11.84%
Alexander Mendik 1986 Trust	3.05%
Alexander Mendik	1.33%
Nancy Batkin Troy	3.58%
Nancy Batkin 2003 Trust	<u>13.05%</u>
	<u>100.00%</u>

**ROBERTS & HOLLAND LLP**

Irving H. Picard, Esq.

-2-

June 25, 2009

The Protective Claims are being filed in order to preserve any rights the members of SMT may have with respect to the outcome of litigation filed relating to the rights of members of entities to recover separate amounts from SIPC.

Kindly acknowledge receipt of the enclosed by signing the enclosed copy of this letter and returning it to me in the enclosed, self-addressed stamped envelope.

Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lary S. Wolf". The signature is fluid and cursive, with the first name "Lary" and last name "Wolf" clearly distinguishable.

Lary S. Wolf

LSW/mg  
Enclosures

RECEIPT ACKNOWLEDGED:

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**PROTECTIVE**  
**CUSTOMER CLAIM \***

Claim Number \_\_\_\_\_

Date Received \_\_\_\_\_

**BERNARD L. MADOFF INVESTMENT SECURITIES LLC**

In Liquidation

**DECEMBER 11, 2008**

(Please print or type)

Name of Customer: Susan Mendik - SMT Investors LLC  
Mailing Address: 150 E. 58th St - 17th Floor  
City: New York State: NY Zip: 10155  
Account No.: 1-CM827  
Taxpayer I.D. Number (Social Security No.): \_\_\_\_\_ ✓

**NOTE: BEFORE COMPLETING THIS CLAIM FORM, BE SURE TO READ CAREFULLY THE ACCOMPANYING INSTRUCTION SHEET. A SEPARATE CLAIM FORM SHOULD BE FILED FOR EACH ACCOUNT AND, TO RECEIVE THE FULL PROTECTION AFFORDED UNDER SIPA, ALL CUSTOMER CLAIMS MUST BE RECEIVED BY THE TRUSTEE ON OR BEFORE March 4, 2009. CLAIMS RECEIVED AFTER THAT DATE, BUT ON OR BEFORE July 2, 2009, WILL BE SUBJECT TO DELAYED PROCESSING AND TO BEING SATISFIED ON TERMS LESS FAVORABLE TO THE CLAIMANT. PLEASE SEND YOUR CLAIM FORM BY CERTIFIED MAIL - RETURN RECEIPT REQUESTED.**

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1. Claim for money balances as of **December 11, 2008:**

- a. The Broker owes me a Credit (Cr.) Balance of \$ 0
- b. I owe the Broker a Debit (Dr.) Balance of \$ 0
- c. If you wish to repay the Debit Balance,  
please insert the amount you wish to repay and  
attach a check payable to "Irving H. Picard, Esq.,  
Trustee for Bernard L. Madoff Investment Securities LLC."  
If you wish to make a payment, it must be enclosed  
with this claim form. \$ N/A  
None
- d. If balance is zero, insert "None."

\* This Protective Claim relates to 42.05% of  
Account # 1-CM827.

2. Claim for securities as of **December 11, 2008:**

**PLEASE DO NOT CLAIM ANY SECURITIES YOU HAVE IN YOUR POSSESSION.**

- |   | <u>YES</u> | <u>NO</u> |
|---|------------|-----------|
| a. The Broker owes me securities        | <u>X</u>   |           |
| b. I owe the Broker securities          |            | <u>X</u>  |
| c. If yes to either, please list below: |            |           |

Date of Transaction (trade date)	Name of Security	Number of Shares or Face Amount of Bonds	
		The Broker Owes Me (Long)	I Owe the Broker (Short)
	See attached statement	as of	11/30/08
	Alc# 1-cm 827-3-0		
	Alc# 1-cm 827-4-0		

Proper documentation can speed the review, allowance and satisfaction of your claim and shorten the time required to deliver your securities and cash to you. Please enclose, if possible, copies of your last account statement and purchase or sale confirmations and checks which relate to the securities or cash you claim, and any other documentation, such as correspondence, which you believe will be of assistance in processing your claim. In particular, you should provide all documentation (such as cancelled checks, receipts from the Debtor, proof of wire transfers, etc.) of your deposits of cash or securities with the Debtor from as far back as you have documentation. You should also provide all documentation or information regarding any withdrawals you have ever made or payments received from the Debtor.

Please explain any differences between the securities or cash claimed and the cash balance and securities positions on your last account statement. If, at any time, you complained in writing about the handling of your account to any person or entity or regulatory authority, and the complaint relates to the cash and/or securities that you are now seeking, please be sure to provide with your claim copies of the complaint and all related correspondence, as well as copies of any replies that you received.

**PLEASE CHECK THE APPROPRIATE ANSWER FOR ITEMS 3 THROUGH 9.**



**NOTE: IF "YES" IS MARKED ON ANY ITEM, PROVIDE A DETAILED EXPLANATION ON A SIGNED ATTACHMENT. IF SUFFICIENT DETAILS ARE NOT PROVIDED, THIS CLAIM FORM WILL BE RETURNED FOR YOUR COMPLETION.**

- |   | <u>YES</u> | <u>NO</u>   |
|---|------------|---|
| 3. Has there been any change in your account since December 11, 2008? If so, please explain.  | _____      | _____ X   |
| 4. Are you or were you a director, officer, partner, shareholder, lender to or capital contributor of the broker?   | _____      | _____ X   |
| 5. Are or were you a person who, directly or indirectly and through agreement or otherwise, exercised or had the power to exercise a controlling influence over the management or policies of the broker? | _____      | _____ X   |
| 6. Are you related to, or do you have any business venture with, any of the persons specified in "4" above, or any employee or other person associated in any way with the broker? If so, give name(s)    | _____      | _____ X   |
| 7. Is this claim being filed by or on behalf of a broker or dealer or a bank? If so, provide documentation with respect to each public customer on whose behalf you are claiming.                         | _____      | _____ X   |
| 8. Have you ever given any discretionary authority to any person to execute securities transactions with or through the broker on your behalf? Give names, addresses and phone numbers.                   | _____ X    | _____ Bernard L. Madoff<br>885 Third Avenue<br>NY, NY 10022<br>(212) 230-2424 |
| 9. Have you or any member of your family ever filed a claim under the Securities Investor Protection Act of 1970? if so, give name of that broker.  | _____      | _____ X   |

Please list the full name and address of anyone assisting you in the preparation of this claim form: \_\_\_\_\_

If you cannot compute the amount of your claim, you may file an estimated claim. In that case, please indicate your claim is an estimated claim.

**IT IS A VIOLATION OF FEDERAL LAW TO FILE A FRAUDULENT CLAIM. CONVICTION CAN RESULT IN A FINE OF NOT MORE THAN \$50,000 OR IMPRISONMENT FOR NOT MORE THAN FIVE YEARS OR BOTH.**

**THE FOREGOING CLAIM IS TRUE AND ACCURATE TO THE BEST OF MY INFORMATION AND BELIEF.**

Date 6/22/09 Signature Aaron Mendik  
Date \_\_\_\_\_ Signature \_\_\_\_\_

(If ownership of the account is shared, all must sign above. Give each owner's name, address, phone number, and extent of ownership on a signed separate sheet. If other than a personal account, e.g., corporate, trustee, custodian, etc., also state your capacity and authority. Please supply the trust agreement or other proof of authority.)

**This customer claim form must be completed and mailed promptly,  
together with supporting documentation, etc. to:**

Irving H. Picard, Esq.,  
Trustee for Bernard L. Madoff Investment Securities LLC  
Claims Processing Center  
2100 McKinney Ave., Suite 800  
Dallas, TX 75201